

REMARKS

In accordance with the foregoing, claims 1, 2, 9-11, 17 and 21 have been amended. Claims 1-21 are pending and under consideration.

The present amendment to claim 21 overcomes the rejection under 35 U.S.C. § 112.

Lee

Independent claim 1 is discussed as an example. This claim recites forming a headband comprising a front part formed of stretchable material and a rear part formed of a non-stretchable material.

The Examiner continues to rely upon the sheet 12 of *Lee* as corresponding to the claimed front part which is stretchable. The sheet 12 is preferably a material having a suitable fabric for a base and having applied to one side thereof a suitable waterproofing material such as a rubber compound. *Lee*, p. 1, ln. 68-73. The Examiner appears to reason that the application of the rubber compound makes the entire sheet 12 stretchable. However, the stretchability of the sheet 12 is limited by the stretchability of the fabric base. If the fabric base is not stretchable, then the rubber would not be able to realize any of its elastic properties. The rubber would essentially be non-stretchable as well, and the sheet 12 as a whole would likewise be non-stretchable.

Furthermore, independent claim 1 recites that the rear part is behind the front part in a circumferential direction of the headband. The band 10 of *Lee* (relied upon by the Examiner as corresponding to the claimed non-stretchable material) is not circumferentially behind the sheet 12. Instead, these elements are disposed radially with respect to each other.

Still further, as previously argued, there would be no need for the sheet 12 to be made of a stretchable material. This is because the non-stretchable sweatband 10 would prevent the user's head from affecting the sheet 12. The Examiner responds by stating that "the functional properties of *Lee*'s sweatband as outlined by the Applicant are not relevant to the patentability of the claimed headband, since *Lee* teaches the claimed headband structure." However, Applicant's arguments go to the structure, as well as the function of the sweatband in *Lee*. Applicant offers this reasoning as further evidence that the structure of the *Lee* sweatband is not stretchable. Since there would be no need for the sheet 12 to be stretchable, it stands to reason that the structure of the sheet 12 would reflect this fact.

Claim 2 depends from claim 1 and recites that the front part of the headband is in contact with the crown and in tension. It is submitted that this is a structural feature. As previously argued, the stitching of Lee does not necessarily indicate tension, since one may also stitch an element that is not under tension.

Park

This reference also does not teach a rear part behind the front part in a circumferential direction of the headband. Instead, the narrow stripe 7 and headband 3 (relied upon by the Examiner as respectively corresponding to the claimed front part and rear part) are disposed vertically and radially with respect to each other.

Alexander

Alexander does not overcome these deficiencies in Park, and is not relied on by the Examiner to do so.

Based on the foregoing, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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